

Message Text

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EYES ONLY FOR MCINTYRE D/LOS FROM STEVENSON

E.O. 11652: GDS
SUBJECT: LOS

FOR THE SECRETARY FROM AMB STEVENSON

SUMMARY OF KEY ISSUES AND PROBLEMS IN LAW OF THE SEA NEGOTIATIONS

A. THE TERRITORIAL SEA - THERE IS A GROWING CONSENSUS IN FAVOR OF A 12-MILE TERRITORIAL SEA IN WHICH COASTAL STATES EXERCISE SOVEREIGNTY SUBJECT ONLY TO A RIGHT OF INNOCENT SURFACE PASSAGE FOR FOREIGN VESSELS. THIS IS A CONDITIONAL CONSENSUS, REQUIRING AS PART OF THE SAME AGREEMENT:

(1) RECOGNITION OF COASTAL STATES' ASPIRATIONS FOR ECONOMIC CONTROL OVER RESOURCES IN A BROAD COASTAL AREA BEYOND THE 12-MILE TERRITORIAL SEA; AND
(2) SATISFACTION OF MARITIME STATES REQUIREMENTS FOR FREE TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION OVERLAPPED BY A 12-MILE TERRITORIAL SEA.

B. TRANSIT THROUGH INTERNATIONAL STRAITS OVERLAPPED BY THE TERRITORIAL SEA - THE USG IS SUPPORTED IN SEEKING FREE TRANSIT OF INTERNATIONAL STRAITS BY THE USSR, UK, FRANCE, ITALY, OTHER MARITIME STATES, AND A FEW DEVELOPING COUNTRIES SUCH AS SINGAPORE, ETHIOPIA AND ARGENTINA; IT IS OPPOSED PRINCIPALLY BY SPAIN, THE ARAB STATES, AND THE ARCH-PELAGO STATES OF INDONESIA AND THE PHILIPPINES, MOST DEVELOPING COASTAL STATE HAVE TAKEN NO POSITION.

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CIPALLY BY SPAIN, THE ARAB STATES, AND THE ARCH-PELAGO STATES OF INDONESIA AND THE PHILIPPINES, MOST DEVELOPING COASTAL STATE HAVE TAKEN NO POSITION.

THE NEGOTIATING PROBLEMS WE FACE IN ACHIEVING

OUR STRAITS OBJECTIVES ARE:

(1) CONVINCING THE DEVELOPING COASTAL STATES WITHOUT
STRAITS WHO REGARD ISSUE LARGELY AS A BARGAINING COUNTER
THAT FREE TRANSIT IS IN THEIR INTEREST AND AN ESSENTIAL
PART OF GENERAL SETTLEMENT IN WHICH THEY GET THEIR MOST IMPORTANT
LOS OBJECTIVE OF BROAD ECONOMIC JURISDICTION BEYOND THE TERRI-
TORIAL SEA.

(2) SEPARATING THE ARAB STATES FROM OTHER SUPPORTERS OF
INNOCENT PASSAGE BY SEPARATING THE ISSUE OF TRANSIT THROUGH
THE STRAIT OF TIRAN FROM THE GENERAL LOS NEGOTIATIONS.

(3) SATISFYING THE ARCHIPELAGO STATES OBJECTIVE OF OBTAIN-
INGrecognition of the archipelago concept in a manner that
guarantees adequate free transit through the archipelago

(4) NEUTRALIZING OR ISOLATING SPAIN.

C. COASTAL STATE ECONOMIC JURISDICTION
BEYOND THE 12-MILE TERRITORIAL SEA

THERE IS VERY GENERAL AGREEMENT
ON COASTAL STATE ECONOMIC JURISDICTION OVER RESOURCES BEYOND
THE 12-MILE TERRITORIAL SEA.

THE PROPOSAL WHICH HAS THE WIDEST GENERAL SUPPORT IS THE
200-MILE EXCLUSIVE
ECONOMIC ZONE (MORE PRECISELY, A
188-MILE EXCLUSIVE ZONE BEYOND THE 12 MILE TERRITORIAL SEA), BUT,
THERE IS AT PRESENT NO GENERAL AGREEMENT WITH RESPECT TO
THE OUTER BOUNDARY OR NATURE OF THIS JURISDICTION:
(1) OUTER BOUNDARY. THERE IS VERY WIDE AGREEMENT THAT
COASTAL STATE JURISDICTION OVER COASTAL SEABED MINERALS
(PRINCIPALLY GAS AND OIL)
SHOULD EXTEND TO AT LEAST 200 MILES. THERE IS LESS GENERAL
AGREEMENT ON A 200 MILE FISHERIES LIMIT WITH THE USSR, JAPAN
AND OTHER DISTANT WATER FISHING STATES SUPPORTING INTERNATIONAL
MANAGEMENT BEYOND 12 MILES, AND THE UNITED STATES ADVOCATING
COASTAL STATE JURISDICTION OVER COASTAL FISH AND SALMON
THROUGHOUT THEIR MIGRATORY RANGE AND INTERNATIONAL MANAGEMENT
OF TUNA.

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(2) NATURE OF JURISDICTION. THE PRINCIPAL ISSUES ARE WHETHER

COASTAL STATE JURISDICTION SHOULD BE SUBJECT TO
(1) INTERNATIONAL STANDARDS PROTECTING OTHER USES
OF THE AREA SUCH AS NAVIGATION AND SCIENTIFIC RESEARCH, FOREIGN
INVESTORS AND ACCESS BY FOREIGN FISHERMEN ON REASONABLE
TERMS WHEN THE COASTAL STATE IS NOT FULLY UTILIZING THE
FISHERIES, AS WELL AS CERTAIN OTHER INTERNATIONAL INTERESTS; (11)
SOME REVENUE-SHARING WITH THE INTERNATIONAL COMMUNITY;
AND (111) COMPULSORY DISPUTE SETTLEMENT.

MOST SUPPORTERS OF THE EXCLUSIVE ECONOMIC ZONE ALSO FAVOR CO-
ASTAL STATE JURISDICTION WITH RESPECT TO SCIENTIFIC RESEARCH
AND VESSEL SOURCE POLLUTION WITHIN THE ZONE.

THERE HAS BEEN STRONG OPPOSITION TO GIVING COASTAL STATES
THE RIGHT TO SET STANDARDS IN THOSE AREAS, BUT

MORE WILLINGNESS TO ACCEPT SOME LIMITED ROLE FOR THE COASTAL STATES IN ENFORCING THERE STANDARDS.
THE CONCEPT OF A COASTAL STATE ECONOMIC ZONE WILL ALMOST SURELY FORM PART OF A GENERAL INTERNATIONAL SETTLEMENT.
THIS CONCEPT HAS NOW BECOME A POLITICAL OBJECTIVE WITH A LIFE OF ITS OWN INDEPENDENT OF THE SUBSTANTIVE OBJECTIVES SOUGHT. THE PRINCIPAL UNITED STATES NEGOTIATING PROBLEMS IN THIS AREA ARE TO ACHIEVE SATISFACTORY INTERNATIONAL STANDARDS AND COMPULSORY DISPUTE SETTLEMENT.
CONTINUING NEGOTIATIONS WITH THE MODERATE LATIN AMERICAN LEADERSHIP, PARTICULARLY MEXICO AND VENEZUELA, MAY BE PARTICULARLY PRODUCTIVE IN THIS AREA.

\$. THE DEEP SEABED AREA BEYOND
COASTAL STATE ECONOMIC JURISDICTION
THERE IS A GENERAL CONSENSUS
IN FAVOR OF AN INTERNATIONAL LEGAL REGIME AND AUTHORITY WITH RESPECT TO THE EXPLOITATION OF THIS AREA. THE PRINCIPAL NATIONAL INTEREST INVOLVED IS THE PRODUCTION OF NICKEL, COPPER AND COBALT FROM THE MANGANESE MODULES OF THE DEEP SEABED.
THE CRITICAL ISSUES ARE THE NATURE OF THE INTERNATIONAL AUTHORITY'S POWERS WITH RESPECT TO THE EXPLOITATION OF THE DEEP SEABED AND ITS DECISION MAKING PROCESS.
IN VIEW OF COASTAL DEVELOPING STATES' OVERRIDING CONCERN WITH THEIR ECONOMIC JURISDICTION OVER THE RESOURCES OFF THEIR COASTS, THE BEST OPPORTUNITY THE UNITED STATES WILL HAVE TO NEGOTIATE A SATISFACTORY AGREEMENT FOR THE DEEP SEABED WILL BE AS
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A PART OF AN OVERALL SETTLEMENT IN WHICH THESE COASTAL STATE ASPIRATIONS ARE ACCOMODATED. IN THESE NEGOTIATIONS THE CONTINUING SUPPORT OF THE USSR, THE UNITED KINGDOM, FRANCE AND JAPAN OVER ALL OF WHOM WE HAVE A CONSIDERABLE ADVANTAGE IN DEEP SEABED TECHNOLOGY WILL BE VERY IMPORTANT.

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